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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte BAO TRAN

Appeal 2009-002506
Application 10/779,537
Technology Center 2100

Decided: February 5, 2010

Before LANCE LEONARD BARRY, JEAN R. HOMERE, and STEPHEN C. SIU, *Administrative Patent Judges*.

BARRY, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

The Patent Examiner rejected claims 1-20. The Appellant appeals therefrom under 35 U.S.C. § 134(a). We have jurisdiction under 35 U.S.C. § 6(b).

INVENTION

The Appellant describes the invention at issue on appeal as follows.

> Systems and methods are disclosed for mapping intellectual property by searching one or more remote databases for one or more relevant patents . . . and performing network analysis on the relevant patents.
>
> Advantages of the invention may include one or more of the following. The system automates the search for identifying relationships among patents. Patents are visually displayed for ease of interpretation.

(Spec. 4.)

ILLUSTRATIVE CLAIM

1. A computer-implemented method for mapping intellectual property, comprising:

searching one or more remote databases for one or more relevant patents; and

performing a network analysis on the relevant patents and displaying one or more patents.

PRIOR ART

Rivette	US 6,339,767 B1	Jan. 15, 2002
Grune	US 2003/0004936 A1	Jan. 2, 2003
Yeh	US 2004/0123235 A1	June 24, 2004

Munzner, Tamera. *H3 Laying Out Large Directed Graphs in 3D Hyperbolic Space,* Proceedings of 1997 IEEE Symposium on Information Visualization, pp. 2-10 (1997).

REJECTIONS

Claims 1, 4-7, 11-12, and 16-17 stand rejected under 35 U.S.C. § 102(e) as anticipated by Grune.

Claims 2, 14-15, and 18-20 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Grune and Yeh.

Claim 3 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Grune and Munzner.

Claims 8-10 and 13 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Grune and Rivette.

CLAIMS 1, 7, AND 16

Based on the Appellant's arguments, we will decide the appeal of claims 1, 7, and 16 on the basis of claim 1 alone. *See* 37 C.F.R. § 41.37(c)(1)(vii).

FIRST ISSUE

The Examiner makes the following findings.

Grune indicates, 0003, that analysis of patent information by mapping or clustering allows a user to understand how a group

> of patents or claims are related. This analysis by mapping is clearly shown, in 0048, stating that the program can be used to map patent citations or patent's claims in hyperbolic tree format.

(Ans. 18.) The Appellant argues that "Grune fails to show the claimed network analysis, which involves the application of network theory or graph theory to form relationships between patents." (App. Br. 6.)

Issue

Therefore, the issue before us is whether the Appellant has shown error in the Examiner's finding that Grune performs a network analysis on patents.

Law

"[D]uring examination proceedings, claims are given their broadest reasonable interpretation consistent with the specification." *In re Hyatt*, 211 F.3d 1367, 1372 (Fed. Cir. 2000). "It is axiomatic that anticipation of a claim under § 102 can be found only if the prior art reference discloses every element of the claim, and that anticipation is a fact question . . . ." *In re King*, 801 F.2d 1324, 1326 (Fed. Cir. 1986) (citing *Lindemann Maschinenfabrik GMBH v. Am. Hoist & Derrick Co.,* 730 F.2d 1452, 1457 (Fed. Cir. 1984)).

Findings of Fact ("FFs")

1. Claim 1 recites in pertinent part the following limitations: "performing a network analysis on the relevant patents and displaying one or more patents."

2. The Appellant's Specification (p. 16) describes network analysis as follows. "[N]etwork analysis is performed on the search result in one embodiment (712). Network analysis can generate sociograms (network diagrams) to visualize the networks being analyzed."

3. Grune describes "a web-enabled tool that allows simultaneous intelligent searching, knowledge management based problem solving, valuation, and modeling of intellectual property and scientific information." (Abstract, ll. 1-4.) More specifically, the tool "receives user queries and can simultaneously and automatically access an intellectual property database, a scientific information database, a knowledge management based problem solving database, and a valuation based algorithm database to categorize, analyze, and disseminate pertinent information resulting in modeling and display." (*Id.* at 10-15.)

4. The reference more specifically describes the display of information as follows.

> The program allows for simultaneous modeling of the valuation and intellectual property results. The results may be displayed in various graphical formats. Hyperbolic trees allow for the display of information on a hyperbolic plane using a focus plus context technique. The center of the tree is called a root, and the branches of information related to the root are displayed in the hyperbolic plane. The focus is easily shifted to a different part of the hyperbolic tree using a pointer device, such as a mouse, to choose a different root center. The program can be used to map patent citations or a patent's claims in hyperbolic tree format. A single patent or claim is at the center of the hyperbolic tree and related claims or patents are the branches connected to the root center.

(¶ [0048].)

Analysis

Claim 1 requires performing network analysis on at least one patent and displaying at least one patent. (FF 1.) The Appellant's Specification describes the network analysis as generating network diagrams to visualize the networks being analyzed. (FF 2.) Giving the claim the broadest, reasonable interpretation consistent with the Specification, the limitations require generating network diagrams of patents to visualize the relation therebetween.

For its part, Grune models intellectual property results. (FF 4.) More specifically, the reference can model a group of patents with a single patent as the center of a hyperbolic tree and related patents as the branches connected to the center. (*Id.*)[1] Consequently, we agree with the Examiner that the "[A]*ppellant's definition of network analysis is clearly met, as Grune essentially discloses generating a* [network diagram] *(e.g. hyperbolic tree) to visualize networks being analyzed (e.g. relation between patent*[s] . . . *)."* (Answer 18.)

[1] The Appellant admits "that Figs. 8-9 [of his Specification] show exemplary displays of IPs that are analogous to Grune' paragraph [0048]. As mentioned therein, in the exemplary display of Fig. 8, each patent is represented as a sphere. In Fig. 9, the patents are arranged as hyperbolic trees. (Appeal Br. 6.)

Conclusion

Based on the aforementioned facts and analysis, we conclude that the Appellant has shown no error in the Examiner's finding that Grune performs a network analysis on patents.

SECOND ISSUE

The Appellant's Reply Brief (p. 1) includes the new argument that "Grune fails to show searching remote databases for relevant patents."

Issue

Therefore, the issue is whether the Appellant has shown that we should consider his new arguments.

Law

"[I]t is inappropriate for appellants to discuss in their reply brief matters not raised in . . . the principal brief[ ]. Reply briefs are to be used to reply to matter[s] raised in the brief of the appellee." *Kaufman Co. v. Lantech, Inc.*, 807 F.2d 970, 973 n* (Fed. Cir. 1986). "Considering an argument advanced for the first time in a reply brief . . . is not only unfair to an appellee but also entails the risk of an improvident or ill-advised opinion on the legal issues tendered." *McBride v. Merrell Dow & Pharms., Inc.*, 800 F.2d 1208, 1211 (D.C. Cir. 1986) (internal citations omitted).

> There are cogent reasons for not permitting an appellant to raise issues or arguments in a reply brief. Among them are the unfairness to the appellee who does not have an opportunity to respond and the added burden on the court that a contrary practice would entail. As the Tenth Circuit put it, permitting an appellant to raise new arguments in a reply brief "would be

> unfair to the court itself, which without the benefit of a response from appellee to an appellant's late-blooming argument, would run the risk 'of an improvident or ill-advised opinion, given [the court's] dependence . . . on the adversarial process for sharpening the issues for decision.'" *Headrick* [*v. Rockwell Int'l Corp.*], 24 F.3d [1272,] 1278 [(10th Cir. 1994)], (quoting *Herbert v. Nat'l Acad. of Scis.*, 974 F.2d 192, 196 (D.C. Cir. 1992)).

Carbino v. West, 168 F.3d 32, 34-35 (Fed. Cir. 1999).

Findings of Fact

5. Claim 1 recites in pertinent part the following limitations: "searching one or more remote databases for one or more relevant patents."

6a. The Examiner's finds in the Examiner's Answer (p. 4) that claim 1's "searching one or more remote databases for one or more relevant patents" reads on Grune because "Grune, 0027, allows a user to enter a query via a client computer that is connected to a server on a global area network. Intelligent searching also provides a user access to the stored intellectual property and scientific information contained on various databases."

6b. This finding is identical to that made in the Examiner's Final Rejection (p. 3).

Analysis

Because the finding that the Examiner makes in his Answer (FF 6a) is identical to that in his Final Rejection (FF 6b), from which the instant appeal was taken, we find nothing that would have prompted the new argument in

the Reply Brief. The Appellant could have made the argument in his Appeal Brief. The term "reply brief" is exactly that, a brief in reply to new rejections or new arguments set forth in an examiner's answer. The Appellant may not present arguments in a piecemeal fashion, holding back arguments until an examiner answers the original brief. Of course, the Appellant may present new arguments directly to the Examiner for consideration as part of a continuing application.

Conclusion

Based on the findings of fact and analysis above, we conclude that the Appellant has not shown that we should consider the new argument.

CLAIM 4

The Examiner finds that claim 4 reads on paragraph 0033 of Grune. (Ans. 19.) The Appellant argues that "the analyses of frequency of character strings are not the same as clusterizing patents according to word similarity." (Reply Br. 3.)

ISSUE

Therefore, the issue before us is whether the Appellant has shown error in the finding that Grune clusterizes patents according to word similarity.

LAW

"Argument in the brief does not take the place of evidence in the record." *In re Schulze*, 346 F.2d 600, 602 (CCPA 1965) (citing *In re Cole*, 326 F.2d 769, 773 (CCPA 1964)).

FINDING OF FACT

7. Paragraph [0033] of Grune follows.

> Users can submit a document in a query form and ask ActiveKnowledge to find other documents on similar topics in databases and on the Internet. Autonomy's technology analyzes the frequency of character strings in documents that it finds to determine which strings address the same topics as the submitted document.

ANALYSIS

Grune teaches that when a user submits a document in the form of a query, Autonomy's ActiveKnowledge finds other documents on similar topics in databases and on the Internet. (FF 7.) To find those similar documents, the technology analyzes the frequency of character strings in documents that it finds to determine which strings address the same topics as the submitted document. (*Id.*)

We agree with the Examiner that the resultant collection of documents on similar topics constitutes a cluster of patents. We also agree with him that the analysis of the frequency of character strings in documents to determine which strings address the same topics as the submitted document constitutes clusterizing according to word similarity. For his part, the Appellant has failed to explain, let alone present evidence to support his

allegation that "the analyses of frequency of character strings are not the same as clusterizing patents according to word similarity." (Reply Br. 3.)

CONCLUSION

Based on the aforementioned facts and analysis, we conclude that the Appellant has shown no error in the finding that Grune clusterizes patents according to word similarity.

CLAIM 5

The Examiner finds that Grune "generat[es] a visualization of the patents (visual results) for display on a screen (screen) . . . [Grune, 0060, visual results are displayed in split or full-screen format.]." (Ans. 5.) The Appellant argues that "Grune's split screen/full screen format is not the same as plotting on the claimed large format plotter." (Reply Br. 3.)

ISSUE

Therefore, the issue before us is whether the Appellant has shown error in the Examiner's finding that Grune anticipates claim 5.

LAW

The U.S. Court of Appeals for the Federal Circuit "ha[s] consistently interpreted the word 'or' to mean that the items in the sequence are alternatives to each other." *Schumer v. Lab. Computer Sys.,* 308 F.3d 1304, 1311 (Fed. Cir. 2002).

FINDINGS OF FACT

8. Claim 5 recites in pertinent part the following limitations: "generating a visualization of the patents for display on a screen or plotting on a large format plotter."

9. Grune discloses that "[v]isual results are optionally displayed in split-screen or full-screen format." (¶ [0060].)

ANALYSIS

We agree with the Examiner that "*claim* [5] *states generating a visualization of the patents for display on a screen OR plotting on a large format plotter.*" (Answer 20.) The plain language of the claim (FF 8) supports this finding.

Because the claim uses the conjunction "or," it means that the claimed screen or plotter are alternatives to each other. Consequently, a reference need only teach one of the alternatives to anticipate the claim. Here, Grune teaches a screen. (FF 9.)

CONCLUSION

Based on the aforementioned facts and analysis, we conclude that the Appellant has shown no error in the Examiner's finding that Grune anticipates claim 5.

CLAIM 6

The Examiner finds that "in 0045, visual mapping of information in 2-d and 3-d format is demonstrated . . . ." (Ans. 21.) The Appellant admits that "[t]he showing of 3D pictures in a 2D display device is commonly done" (Reply Br. 3) but argues "that is not what the claim recites, namely a 3D display device." (*Id.*)

ISSUE

Therefore, the issue before us is whether the Appellant has shown error in the Examiner's finding that Grune discloses a 3-D display device.

FINDINGS OF FACT

10. Claim 6 recites in pertinent part "a 3D display device."

11. Grune discloses that "[v]isual mapping of information in 2-D and 3-D format is demonstrated . . . ." (¶ [0045].)

ANALYSIS

Claim 6 requires a 3-D display device. (FF 10.) Giving the claim the broadest, reasonable interpretation consistent with the Specification, we interpret a 3-D display device as a device that can display information in a 3-D format.

As mentioned previously, the Appellant admits that 3-D pictures are commonly shown on a 2-D display. For its part, Grune describes visual mapping of information in a 3-D format. (FF 11.) Because the reference's

display device can display information in a 3-D format, we agree with the Examiner that it constitutes a 3-D display device.

CONCLUSION

Based on the aforementioned facts and analysis, we conclude that the Appellant has shown no error in the Examiner's finding that Grune discloses a 3-D display device.

CLAIMS 11 AND 12

The Examiner makes the following findings.

> [*T*]*he user must utilize some personal computer (e.g. client) to even get the internet and connect to the client computer. Accordingly, there must be multiple clients the user must use to submit the search request to the server. Therefore, further comprising distributing a search (search) over a plurality of client computers (client computer/user connect to client via internet) is suggested.*

(Ans. 22.) The Appellant argues that "nowhere in Gruner [sic] does it show that a plurality of clients operate in tandem to satisfy the search request as part of a collective group of clients that answers the search." (Reply Br. 3.)

ISSUE

Therefore, the issue before us is whether the Appellant has shown error in the Examiner's finding that Grune distributes a search over a plurality of client computers.

FINDING OF FACT

12. Grune discloses that "[c]ommands from the client computer will dispatch to the server computer, which executes the intelligent search engine . . . . Server administration will allow access to manage the databases stored within the server computer." (¶ [0015].)

ANALYSIS

Grune teaches that a client computer sends commands to a server computer, which performs searches. (FF 12.) We agree with the Appellant that "[t]he Grune server computer is not a plurality of client computers." (Reply Br. 3.) The absence of distributing a search over a plurality of client computers, therefore, negates anticipation.

CONCLUSION

Based on the aforementioned facts and analysis, we conclude that the Appellant has shown error in the Examiner's finding that Grune distributes a search over a plurality of client computers.

CLAIM 17

The Examiner finds that "*Grune 0014 states that SIPS-VSM searches databases, identifies the relevant information to the query, and displays and values the results in the resulting files . . . .*" (Ans. 23.) The Appellant argues that "Grune's paragraph 48 fails to show the means for generating a computer readable intellectual property mapping file, as discussed above." (Reply Br. 4.)

ISSUE

Therefore, the issue before us is whether the Appellant has shown error in the Examiner's finding that Grune discloses a means for generating a computer-readable intellectual property mapping file.

LAW

"Silence implies assent." *Harper & Row Publishers, Inc. v. Nation Enters.*, 471 U.S. 539, 572 (1985)).

FINDINGS OF FACT

13. "[T]*he means for generating a computer readable intellectual mapping file is not defined in the* [S]*pecification.*" (Answer 23.)

14. Grune discloses that its Simultaneous Intellectual Property Search and Valuation ("SIPS-VSM") system "searches the databases, identifies the relevant information to the query, and displays and values the results in the resulting files in an audio/visual format. The user may save or print the results files generated from the query." (¶ [0014].)

ANALYSIS

The Examiner finds that claim 17's "means for generating a computer-readable intellectual mapping file" is undefined by the Specification. (FF 13.) The Appellant does not contest this finding, which implies his assent thereto.

For its part, Grune's SIPS-VSM displays and values the results of searches in files. (FF 14.) We agree with the Examiner, therefore, that the SIPS-VSM constitutes a means for generating a computer-readable intellectual property mapping file.

CONCLUSION

Based on the aforementioned facts and analysis, we conclude that the Appellant has shown no error in the Examiner's finding that Grune discloses a means for generating a computer-readable intellectual property mapping file.

CLAIMS 2, 14, 15, 19, AND 20

The Examiner admits that "Grune does not explicitly disclose retrieving cited prior art patents for each patent found in search results." (Answer 8.) He finds that "[o]n the other hand, Yeh discloses, [0038], a citation analysis module is used to generate citation information of a designated patent according to patent summary information stored in the patent information table. That is, cited patents are retrieved." (*Id.*) The Appellant argues that "Yeh shows only citation information and does not show that cited patents are retrieved." (Reply Br. 5.)

ISSUE

Therefore, the issue before us is whether the Appellant has shown error in the Examiner's finding that Yeh retrieves cited prior art patents for each patent found in search results.

LAW

The question of obviousness is "based on underlying factual determinations including . . . what th[e] prior art teaches explicitly and inherently . . . ." *In re Zurko*, 258 F.3d 1379, 1383 (Fed. Cir. 2001). "'A prima facie case of obviousness is established when the teachings from the prior art itself would appear to have suggested the claimed subject matter to a person of ordinary skill in the art.'" *In re Bell*, 991 F.2d 781, 783 (Fed. Cir. 1993) (quoting *In re Rinehart*, 531 F.2d 1048, 1051 (CCPA 1976)).

FINDINGS OF FACT

15. Yeh "provide[s] a system for displaying up-to-date patent citation information in a star-hyperbolic tree." (¶ [0006].)

16. The same reference explains that "[t]he citation analysis module 401 is used to generate citation information of a designated patent according to patent summary information stored in the patent information table 410." (¶ [0038].)

17. Yeh includes the following specific description of its patent information table.

> The patent information table 410 comprises columns for patent number 511, cites 513, and cited by 515. All data stored in the patent information table 410 have been mined from patent documents downloaded from the IP information websites 130.
>
> The column for patent number 511 stores patent numbers of patents. The corresponding patents may be completely or partially stored in the patent document storage 420 of the file server 123. The column for cites 513 stores patent numbers

> that are cited by a particular patent. The column for cited by 515 stores patent numbers of patents that cite a particular patent.

(¶¶ [0041]-[0042].)

ANALYSIS

As previously mentioned, the Examiner admits that Grune does not disclose retrieving cited prior art patents for each patent found in search results. For its part, Yeh discloses a system for displaying up-to-date patent citation information in a star-hyperbolic tree. (FF 15.)

The Examiner relies on paragraph 38 of the reference to teach the retrieval of cited patents. The paragraph describes the operation of a citation analysis module. (FF 16.) The Examiner fails to show, however, that the citation module retrieves cited patents.

To the contrary, Yeh explains that the module merely generates citation information of a designated patent according to patent summary information stored in a patent information table. (FF 16.) The patent information table comprises columns for patent number 511, cites 513, and cited by 515. (FF 17.) Column 511 stores patent numbers of patents; column 513, patent numbers that are cited by a particular patent. Although Yeh teaches that the patents identified in column 511 may be stored in a patent document storage, the reference does not teach storing the patents identified in columns 513 or 515, i.e., the cited patents or the cited by patents. Absent a teaching or suggestion of retrieving cited prior art patents

for each patent found in search results, we are unpersuaded of a prima facie case of obviousness.

CONCLUSION

Based on the aforementioned facts and analysis, we conclude that the Appellant has shown error in the Examiner's finding that Yeh retrieves cited prior art patents for each patent found in search results.

CLAIM 18

The Examiner makes the following findings.

> Yeh discloses the recited limitations of claim 18, wherein the ip mapping file (Figure 5C, XML document corresponding to figure 5B) comprises: a collection of patent documents (Figure 5B, patent nodes), each having one or more links (Figure 5B, citation links) embedded in the first portion (figure 5B, element 521) referencing one or more external documents viewable using a viewer application (figure 5D, illustration of the patent citation tree of figure 5B); and one or more links embedded in the third portion (Figure 5B, nodes on the far right side) referencing information contained in the second portion (Figure 5B, nodes 522-524); and links generated by a network analysis of relationships among the patent documents (0038, citation analysis).

(Ans. 29-30.) The Appellant makes the following argument.

> Nowhere in Yeh does it show the claimed specifics of a collection of patent documents, each having one or more links embedded in the first portion referencing one or more external documents viewable using a viewer application; and one or more links embedded in the third portion referencing information contained in the second portion;

> and links generated by a network analysis of relationships among the patent documents.

(Reply Br. 6.)

ISSUE

Therefore, the issue before us is whether the Appellant has shown error in the Examiner's finding that the combined teachings of Grune and Yeh would have suggested the limitations of claim 18.

LAW

"'On appeal to the Board, an applicant can overcome a rejection by showing insufficient evidence of *prima facie* obviousness or by rebutting the *prima facie* case with evidence of secondary indicia of nonobviousness.'" *In re Kahn*, 441 F.3d 977, 985-86 (Fed. Cir. 2006) (quoting *In re Rouffet*, 149 F.3d 1350, 1355 (Fed. Cir. 1998)).

ANALYSIS

The Examiner has presented the previously mentioned detailed findings of how the combined teachings of Grune and Yeh would have suggested the limitations of claim 18. The Appellant has failed to address, let alone show evidence to rebut, these findings. He has merely alleged that the limitations are not taught. Such allegations are insufficient to establish non-obviousness.

CONCLUSION

Based on the aforementioned facts and analysis, we conclude that the Appellant has shown no error in the Examiner's finding that the combined teachings of Grune and Yeh would have suggested the limitations of claim 18.

CLAIM 3

The Examiner finds that "*the combination of Grune and Munzer disclose for each patent (Grune, Patent as root), creating spring relationship (Munzer, number of nodes) among patents based on number of citation of patent prior art (Grune, related patent); and generating a spring mass diagram (Munzer, mass spring system).*" (Ans. 32.) The Appellant argues that "Munzer fails to show creating spring relationship among patents based on number of citation of patent prior art; and generating a spring mass diagram." (Reply Br. 6.)

ISSUE

Therefore, the issue before us is whether the Appellant has shown error in the Examiner's finding that the combined teachings of Grune and Munzer would have suggested creating spring relationship among patents based on number of citation of patent prior art and generating a spring mass diagram.

LAW

"The test for obviousness is what the combined teachings of the references would have suggested to one of ordinary skill in the art." *In re*

Young, 927 F.2d 588, 591 (Fed. Cir. 1991) (citing *In re Keller*, 642 F.2d 413, 425 (CCPA 1981)). "Non-obviousness cannot be established by attacking references individually where the rejection is based upon the teachings of a combination of references." *In re Merck & Co.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986) (citing *Keller*, 642 F.2d at 425). In determining obviousness, furthermore, a reference "must be read, not in isolation, but for what it fairly teaches in combination with the prior art as a whole." *Id.*

FINDING OF FACT

18. Claim 3 stands rejected over Grune and Munzer.

ANALYSIS

The Examiner bases his rejection of claim 3 on the combined teachings of Grune and Munzer. (FF 18.) The Appellant, however, attacks the latter reference individually. Such a piecemeal attack cannot establish non-obviousness.

CONCLUSION

Based on the aforementioned facts and analysis, we conclude that the Appellant has shown no error in the Examiner's finding that the combined teachings of Grune and Munzer would have suggested creating spring relationship among patents based on number of citation of patent prior art and generating a spring mass diagram.

CLAIMS 8 AND 9

The Examiner makes the following findings regarding claim 8.

> *Grune discloses 0014, the system displays results in the resulting files in an audio/visual format, and the user may save or print the result files generated by the query (results of IP maps). Rivette disclosed col. 55 lines 30-55, disclosing a caching subsystem that caches/retrieves cached patent data (caching IP data in a remote computer.) Both Grune and Rivette disclose a subsystem involving patent display systems. Accordingly, caching (cache) at a remote client computer (subsystem) is suggested.*

(Ans. 33.) Regarding claim 9, he finds that Grune and Rivette would have suggested "retrieving (retrieval) a cached IP map in response to a user request (request) [Rivette, c.54 1. 17, retrieval request is sent to cached subsystem][.]" (*Id.* at 15.)

The Appellant argues that "[a]s to claim 8, Grune and Rivette fail to show caching at a remote client computer. As to claim 9, Grune and Rivette fail to show retrieving a cached IP map from the remote client computer in response to a user request." (Reply Br. 7.)

ISSUE

Therefore, the issue before us is whether the Appellant has shown error in the Examiner's findings that the combined teachings of Grune and Rivette would have suggested the limitations of claims 8 and 9.

FINDINGS OF FACT

19. Rivette's "caching subsystem 11412 of the broker layer 11410 provides a means for objects to be cached on the client 304, 306 . . . ." (Col. 53, ll. 20-22.)

20. The same reference explains that "[i]f the identified portions of the identified patent are currently in the local cache, then in step 14912 the Caching subsystem 11412 retrieves those identified portions of the identified patent from the local cache and returns them to the requester." (Col. 54, ll. 39-43.)

ANALYSIS

The Examiner has presented the previously mentioned detailed findings of how the combined teachings of Grune and Yeh would have suggested the limitations of claims 8 and 9. Rivette's teachings of a caching subsystem (FF 19) retrieves portions of a patent therefrom (FF 20) support the Examiner's findings.

For his part, the Appellant has failed to address, let alone show evidence to rebut, these findings. He has merely alleged that the limitations are not taught. Such allegations are insufficient to establish non-obviousness.

CONCLUSION

Based on the aforementioned facts and analysis, we conclude that the Appellant has shown no error in the Examiner's findings that the combined

teachings of Grune and Rivette would have suggested the limitations of claims 8 and 9.

CLAIM 10

The Examiner finds that "[i]n [Rivette's] col. 54 lines 12-14, in other embodiments, the client 304, 306 discards unused data received from the enterprises server 314 in order to make room for additional data. Accordingly, cache flushing (e.g. discarding data) is suggested by Rivette." (Ans. 34.) The Appellant argues that "Grune and Rivette fails [sic] to mention cache flushing at all." (Reply Br. 7.)

ISSUE

Therefore, the issue before us is whether the Appellant has shown error in the Examiner's finding that the combined teachings of Grune and Rivette would have suggested flushing a cache.

FINDING OF FACT

21. Rivette discloses that "the client 304, 306 discards unused data received from the enterprise server 314 in order to make room for additional data." (Col. 54, ll. 12-14.)

ANALYSIS

As explained regarding claims 8 and 9, Rivette teaches a caching subsystem for the client. (FF 19.) The reference also teaches that the client discards unused data to make room for additional data. (FF 21.) We agree with the Examiner that the combination of these two teachings would have

suggested discarding unused data (i.e., flushing) the client's caching subsystem to make room for additional data.

CONCLUSION

Based on the aforementioned facts and analysis, we conclude that the Appellant has shown no error in the Examiner's finding that the combined teachings of Grune and Rivette would have suggested flushing a cache.

CLAIM 13

The Examiner admits that "Grune does not explicitly disclose further comprising annotating a patent at a local computer and caching the annotated patent at a remote computer to satisfy a subsequent request for said patent alone." (Answer 16.) He adds the following findings.

> *Rivette discloses col. 2 lines 51-52, annotate the case and the patents in the case, import and export the patents and the cases. Rivette discloses col. 2 lines 54-55, that the above is incorporated herein by reference. Further disclosing, a cache subsystem identifies from data retrieval request the patent and the portions of the patent that are requested, col. 54 lines 18-20. Accordingly, annotating a patent at a local computer (annotate the case and the patents) and caching the annotated patent at a remote computer to satisfy subsequent request for the patent (importing and export the patents and the cases) is suggested.*

(*Id.* at 34.) The Appellant argues that "Grune and Rivette fail to show the combination of annotating a patent at a local computer and caching the annotated patent at a remote computer to satisfy a subsequent request for the patent." (Reply Br. 7.)

ISSUE

Therefore, the issue before us is whether the Appellant has shown error in the Examiner's finding that Rivette would have suggested annotating a patent at a local computer and caching the annotated patent at a different, remote computer.

FINDING OF FACT

22. Rivette discloses that "caching only takes place on the network client 306." (Col. 53, ll. 28-29.)

ANALYSIS

As previously mentioned, the Examiner admits that Grune does not disclose annotating a patent at a local computer and caching the annotated patent at a remote computer to satisfy a subsequent request for said patent. For its part, Rivette discloses caching only on the client computer. (FF 21.) Therefore, we agree with the Appellant that Grune and Rivette would not have suggested caching a patent at a computer remote and different from the local computer.

CONCLUSION

Based on the aforementioned facts and analysis, we conclude that the Appellant has shown error in the Examiner's finding that Rivette would have suggested annotating a patent at a local computer and caching the annotated patent at a different, remote computer.

DECISION

We affirm the rejections of claims 1, 3-10, and 16-18. In contrast, we reverse the rejections of claims 2, 11, 12-15, 19, and 20.

No time for taking any action connected with this appeal may be extended under 37 C.F.R. § 1.136(a)(1). *See* 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED-IN-PART

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